

1 **OFFICIAL FILING BY FACSIMILE**
2 **TRANSMISSION ON MARCH 20, 2003 TO THE**
3 **OFFICE OF PETITIONS BY FACSIMILE #703 308**
4 **6916, OFFICE OF PETITIONS TELEPHONE**
5 **NUMBER 703 305 9282 (EXAMINER FRED PRINCE,**
6 **ART UNIT 1724, TELEPHONE 703-306 9169.).**

7 Our Ref. No. P-1534-011

8 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

9
10 In Re Application of: CULLINAN } Date: March 20, 2003
11 Serial No. 09/041,685 } Group Art Unit: 1724
12 Filed: March 13, 1998 } Examiner: Fred Prince
13 For: A VERTICAL VORTEX OR
14 LAMINAR FLOW INTERACTIVE BIO
15 MEDIA WATER TREATMENT DEVICE
16 or in the alternative A BIO-REACTIVE
17 GREASE AND OIL SEPARATOR }
18
19

20 By facsimile transmission only 703 308

FAX RECEIVED

21 Attention Office of Petitions
22 Assistant Commissioner of Patents
23 Box DAC
24 Washington, D.C. 20231

MAR 20 2003

PETITIONS OFFICE

25 Dear Commissioner:

26 In response to the communication from the Examiner dated August 16, 2000,
27 2001, please consider the following:

28 **PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED**

29 **UNINTENTIONALLY UNDER 35 CFR 1.137(b)**

30 The inventors and applicants now Petition for Revival of the Above Identified
31 Application and provides the following to the Commissioner:

32 Certificate of facsimile filing
33 on March 20, 2003 by Floyd E. Ivey.

Application No. 09/041,685

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650.00

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03/24/2003 HLE555
01 FG:2453

1 1) The Petitioner submits a small entity Petition fee of \$650.00 pursuant to 37
2 CFR 1.17(l).

3 2) The Petitioner submits a response to the Examiner's Action of August 16,
4 2000.

5 3) the Petitioner asserts that there is no terminal disclaimer required as this
6 application was filed on or after June 8, 1995.

7 4) the Petitioner submits Petitioner's statement that the entire delay was
8 unintentional. The entire delay in filing the required reply from the due date for the
9 required reply until the filing of a grantable petition under 37CFR 1.137(b) was
10 unintentional.

11

12 March ____, 2003

Max V. Weiss

13

14 March ____, 2003

Terry J. Cullinan

15 **RESPONSE TO EXAMINER'S ACTION OF AUGUST 16, 2000**

16 The following substitute specification for application 09/041,685, entitled A BIO-
17 REACTIVE GREASE AND OIL SEPARATOR, is submitted. The substitute
18 specification, the claim amendments and the remarks are responsive to the Final Office
19 Action dated August 16, 2000 wherein the Examiner states that the substitute
20 specification filed April 11, 2000 has not been entered because it does not conform to
21 MPEP 608.01(q) which requires the submission of a marked-up copy which shows
22 additions to and/or deletions from the original specification and that said proffered
23 substitute specification does not conform to 35 CFR 1.125 which requires that applicants
24 certify that there is no new matter, and moreover, the specification is not entered because
25 certifying that there is no new matter, and moreover, the specification is not entered because
26

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28 on March 20, 2003 by Floyd E. Ivey.

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1 it is replete with new matter.

2 Your applicant submits the following as a substitute specification flowing from
3 the reordering of that which was submitted as the original application. This response and
4 substitute specification is drawn from the specification, drawings and claims as originally
5 submitted and claims 10-29 as added but not received in the August 16, 2000 Action.

6 The amendments and substitution pages are submitted in the new format
7 "Pre-OG Notice". Hence, for each amendment to each distinct section of the
8 application, a separate sheet will be employed per the "Pre-OG Notice". Separate
9 sheets will be commenced for a.) Introductory Comments; b.) Amendments to the
10 Specification; c.) Amendments to the Claims; and d.) Remarks. It is observed that
11 for claims, all claims will be displayed where any amendment is made to any claim.
12 Amendments to claims shall be shown by strike through for deletions and
13 underlining for additions. Amendments to the specification will be by strikeout and
14 underlining. No separate "clean" version is provided for either amendments to
15 claims or specification. In this Petition to the Commissioner and Response to the
16 Examiner's action, the application is set forth as a substitute application. The
17 source supporting each amendment to either claims or specification is from that
18 originally submitted with the original application re: specification and claims and as
19 derived from an examination of the drawings.

20 **CERTIFICATION OF NO NEW MATTER**

21 Pursuant to 37 CFR 1.125, it is certified that no new matter has been added
22 by this submitted substitute specification. The substitute specification is submitted
23 in a marked up format. The additional text is drawn from a review of the drawings
24 as originally submitted comprising Figures 1 through 11. Deriving additional
25 description of the invention from the drawings is recognized as proper and it is

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1 contended here that no new matter has been added.

2 The test of the right to make counts is to be found in the total disclosure. Thus, the
3 omission of a written description in the specification of an application will not
4 necessarily prevent the reading of a count on a structure shown in the drawing and
5 described in general terms in the specification. Here, the function of the disclosed
6 structure is inherent in the structure shown in the drawings forming a part of the
7 application. *Wooster v. Carlson*, 367 F.2d 436, 441, Cust. & Pat.App. 1966;
8 *Carlson v. Nagata*, 480 F.2d 1372, 1375-76; Cust. & Pat.App., 1973

9 The inventors are Max V. Weiss, 407 Skidoo Bay, Polson, Mt. 59860 and Terry J.
10 CULLINAN, P.O. Box 2725, Missoula, Mt. 59806 are as disclosed in the original
11 application.

12 A new Declaration is filed in accordance with the requirements of the Examiner.
13 **This PETITION FOR REVIVAL ACCOMPANIED BY A RESPONSE TO**
14 **THE LAST OFFICE ACTION OF AUGUST 16, 3000 is being filed by facsimile**
15 **transmission to FACSIMILE #703-305 7718.**

16 **FEES OWING**

17 The applicant respectfully observes that this Petition requires the payment of \$650
18 for a small entity and that the PTO 2038 form for payment by Credit Card is included
19 with this transmission.

20 **AMENDMENTS**

21 **In the Specification**

22 **On the following pages the Examiner will find a Substitute Specification with**

23
24
25
26
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28 on March 20, 2003 by Floyd E. Ivey.

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